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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,306	02/24/2000	Toru Nakada	00602	5237

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EXAMINER

VU, NGOC K

ART UNIT PAPER NUMBER

2611

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/512,306

Applicant(s)

NAKADA ET AL.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,9,12-15,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-15 is/are rejected.
- 7) ☒ Claim(s) 1,4,5,7,9,12,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed 10/28/05 has been entered.

Response to Arguments

2. Applicant's arguments filed 10/28/05 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

3. Claim 1 is objected to because of the following informalities: it appears that the term "said self-produced common program guide" in line 9 referred to "*said self-produced common program guide information*". Please change the term "said self-produced common program guide" into "*said self-produced common program guide information*". Appropriate correction is required.

Claim 13 is objected to because of the following informalities: it appears that the term "wherein" in line 3 referring to "comprising". Please change the term "wherein" into "comprising". Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsurumoto (US 6,510,555B1) in view of Blackwell et al. (US 6,085,253 A).

Regarding claim 13, Tsurumoto teaches a program guide information collecting/transmitting system including a program guide information collecting/transmitting apparatus (32 to 35 - see figure 2) for transmitting program guide information to other broadcasters (11-1 to 11-3), wherein

each broadcaster (31-1, 31-2 or 31-3) includes a program guide information producing apparatus that generates self-produced common program guide information based on received program organizing information (prescribed timing signal) and transmits the self-produced common program guide information to said program guide information collecting/transmitting apparatus (32-35) (see col. 8, lines 13-20; col. 9, lines 4-14);

said program guide information collecting/transmitting apparatus (32-35) transmits the received self-produced common program guide information of said each broadcaster (31-1, 31-2 or 31-3) to other broadcasters (11-1 to 11-3) (see col. 8, lines 31-33), and

said other broadcasters (11-1 to 11-3) receive the transmitted self-produced common program guide information of said each broadcaster as common program guide information produced by a different broadcaster (i.e., via 36-1, 36-2 or 36-3) (see col. 8, lines 31-33; col. 9, lines 22-27).

Tsurumoto does not teach that the program guide information producing apparatus of each broadcaster (31-1, 31-2 or 31-3) outputs at least said self-produced common program guide information when transmission from said program guide information collecting/transmission apparatus is failed. However, Blackwell teaches that a transmission system comprises a primary computer or apparatus 34 and backup computer or apparatus 36

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so that when primary apparatus 34 fails, backup apparatus 36 can seamlessly maintain the functions of transmission system. That is, the backup apparatus processes and transmits the requested data when the primary apparatus is failed in transmission system (see col. 5, lines 39-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify system of Tsurumoto by providing data from backup apparatus when transmission from a primary apparatus is failed as taught by Blackwell in order to effectively provide backup function in transmission system.

Regarding claim 14, Tsurumoto teaches that the program guide information collecting/transmitting apparatus comprises a common program guide information storing section (database 32) which administrates the self-produced common program guide information transmitted from said each broadcaster (31-1, 31-2 or 31-3) (see figure 2; col. 8, lines 13-15).

Regarding claim 15, Tsumumoto teaches that each broadcaster transmits the self-produced common program guide information corresponding to a designated time duration (based on timing signal from section 34) to the program guide information collecting/transmitting apparatus, and the program guide information collecting/transmitting apparatus causes the common program guide information storing section (database 32) to store the received self-produced common program guide information transmitted from the each broadcaster during the designated time duration (see col. 8, lines 19-20; col. 9, lines 4-14).

Allowable Subject Matter

6. Claims 1, 4, 5, 7, 9, 12, 17 and 18 would be allowable if rewritten or amended to overcome the objection set forth in this Office action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ngoc K. Vu
Primary Examiner
Art Unit 2611

January 9, 2006